

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

THE ROMAN CATHOLIC DIOCESE OF
ROCKVILLE CENTRE, NEW YORK,¹

Debtor.

Chapter 11

Case No. 20-12345 (MG)

**[PROPOSED] JOINT PRE-TRIAL ORDER
RELATING TO THE JULY 10-11, 2023 EVIDENTIARY HEARING
ON THE MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS TO DISMISS CHAPTER 11 CASE [DOCKET NO. 1912]**

The parties having conferred among themselves, the following statements, directions and agreements are proposed by the parties as the Pretrial Order herein.

I. NATURE OF THE CASE

On July 10, 2023 the Court will begin an evidentiary hearing in the contested matter concerning dismissal of this bankruptcy case (the “Case”). The Official Committee of Unsecured Creditors (the “Committee”) filed the *Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case* [Docket No. 1912] (the “Motion to Dismiss”). The Roman Catholic Diocese of Rockville Centre, New York (the “Diocese” or “Debtor”) and the Future Claims Representative (the “FCR”) both object to the Motion to Dismiss [Docket Nos. 2199, 2196]. The Committee filed its Reply in Support of the Motion to Dismiss [Docket No. 2230] (the “Reply”).

II. BASIS FOR JURISDICTION, WHETHER THE CASE IS CORE OR NON-CORE, AND WHETHER THE BANKRUPTCY JUDGE MAY ENTER FINAL ORDERS OR JUDGMENT

The parties assert that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order on the relief requested in the Motion to the Dismiss.

III. STIPULATED FACTS

1. This Case was filed on October 1, 2020 [Docket 1].

¹ The Debtor in this chapter 11 case is The Roman Catholic Diocese of Rockville Centre, New York, the last four digits of its federal tax identification number are 7437, and its mailing address is P.O. Box 9023, Rockville Centre, NY 11571-9023.

2. The Committee filed the Chapter 11 Plan of Reorganization Proposed by the Official Committee of Unsecured Creditors [Docket No. 1574] on January 19, 2023.
3. The Diocese filed its Chapter 11 Plan for Reorganization (the “Diocese Plan”) [Docket No. 1614] and its Disclosure Statement (the “Diocese Disclosure Statement”) [Docket No. 1615] on January 27, 2023.
4. The Diocese has not sought Bankruptcy Court approval of the Diocese Disclosure Statement.
5. The Committee filed its First Amended Chapter 11 Plan of Reorganization [Docket No. 1643] and Disclosure Statement (“Committee Disclosure Statement”) for the First Amended Chapter 11 Plan of Reorganization [Docket No. 1644] on February 3, 2023.
6. The Committee has not sought Bankruptcy Court approval of the Committee Disclosure Statement.
7. The Committee filed this Motion to Dismiss Chapter 11 Case [Docket No. 1912] on March 27, 2023.
8. The Committee, Diocese, and parishes participated in in-person mediation sessions on May 18 and 19, 2023.
9. The Mediator’s Status Report in May 2023, dated May 26, 2023 [Docket No. 2113] states that “no settlement has been reached and none appears to be on the immediate horizon. Nevertheless, the co-mediators do not consider the mediation concluded and this is not the ‘final report.’ In fact, all parties have expressed their desire and willingness to continue a dialogue toward a settlement.”
10. On May 31, 2023, the Committee consented to Judge Cave continuing as a co-mediator with Mr. Van Osselaer beyond May 31, 2023.
11. As of July 4, 2023, no additional mediation session has been scheduled between the Committee and the Diocese.
12. As of June 30, 2023, no fewer than 33 pending New York state court actions against non-debtor affiliates of the Diocese (but to which the Diocese is not a party) have been removed by such non-debtor affiliate defendants to those actions to the United States District Court for the Eastern District.
13. The Debtor’s Monthly Operating Report for the period ending May 31, 2023 [Docket No. 2237] reflects that the Diocese paid \$69,266,690 in post-petition professional fees and expenses as of the date of the report.

IV. PARTIES' CONTENTIONS

A. Movant the Official Committee of Unsecured Creditors' Contentions

1. The Movant's contentions are fully set forth in the Motion to Dismiss and the Reply in Support of the Motion to Dismiss [Docket No. 2230]. The Movant's principal contentions are summarized below.
2. The Diocese has no viable exit strategy to reach a consensual resolution of this Case. Survivors should not be forced to suffer while the Case languishes because the Diocese refuses to propose a confirmable plan. Cause exists to dismiss the Case, among other reasons, because the Diocese is experiencing "substantial or continuing loss to or diminution of the estate" and has no "reasonable likelihood of rehabilitation." 11 U.S.C. § 1112(b).
3. The joinders filed in support of the Motion to Dismiss demonstrate that the current Diocese Plan, or even a belatedly amended Diocese Plan incorporating proposals made over a month ago in mediation, has no possibility of garnering the overwhelming support required for non-debtor releases. Thus, the Diocese Plan is not confirmable.
4. The mediation is at an impasse. The last session was on May 19, 2023. No further sessions have been scheduled. On May 26, 2023, the Mediators stated their assessment that no resolution is on "the immediate horizon." Mediator's Status Report [Docket No. 2113], at ¶ 4.
5. Remaining in bankruptcy leaves survivors with two options: (1) accept the Diocese Plan that, to the extent its terms are discernable, drastically undercompensates survivors or (2) continue with a façade of "mediation" while the Diocese continues to incur administrative expenses and the parties attempt to have the state court actions against non-Debtor affiliates litigated in a federal forum that has no relationship to claims against such affiliates except perhaps by virtue of the Case.
6. This Case is not providing any benefits to the survivors attributable to the Diocese being in bankruptcy. Theoretical but unrealized benefits do not outweigh the profound harms being inflicted upon the survivors because the Diocese is sustaining consistent losses and has no reasonable prospect of confirming a reorganization plan with the support of an overwhelming number of survivors.
7. The Diocese has no right to remain in bankruptcy indefinitely while diminishing the estate assets available to pay survivors by the accrual of administrative expenses. Given the Diocese's continuing losses, the lack of overwhelming survivor support for the Debtor's plan (including the proposed amendment to the non-Debtor affiliate's contribution) and a reasonable

likelihood of rehabilitation or confirmation of the Debtor's plan, cause exists to dismiss the Case.

B. Respondent The Roman Catholic Diocese of Rockville Centre, New York's Contentions

1. The Debtor's contentions are fully set forth in its Objection to the Official Committee of Unsecured Creditors' Motion to Dismiss the Chapter 11 Case, dated June 26, 2023 [Docket No. 2199] (the "Diocese Objection"). The Debtor's principal contentions are summarized below.
2. The Committee has not carried its burden to prove a substantial or continuing loss to or diminution of the estate.
3. The Diocese's financial performance is supportive of rehabilitation and its financial projections illustrate a path to future viability.
4. A consensual plan will maximize values for creditors while a dismissal will destroy over \$100 million in value.
5. Dismissal is not in the best interests of creditors or the estate.

V. ISSUES TO BE TRIED

1. Whether the Diocese's Case should be dismissed for cause pursuant to 11 U.S.C. § 1112(b) for the reasons set forth in the Motion to Dismiss and the Reply [Docket Nos. 1912, 2230] as contested in the Diocese Objection [Docket No. 2199] and the Objection of the Future Claims Representative to the Motion to Dismiss [Docket No. 2196].

VI. THE PARTIES' EXHIBITS

No exhibit not listed by Movant Committee or Respondent Debtor may be used at the evidentiary hearing except (a) for cross-examination purposes or (b) if good cause for its exclusion from the pretrial order is shown. Each side shall list all exhibits it intends to offer on its case in chief. The list shall include a description of each exhibit. All exhibits shall be pre-marked with each exhibit bearing a unique number or letter with the prefix CX for Movant's exhibits and DX for Respondent's exhibits. Two copies of each exhibit shall be delivered to chambers with the proposed pretrial conference order.

A. MOVANT COMMITTEE'S EXHIBITS

EXHIBIT NUMBER	DESCRIPTION
CX-1	Chapter 11 Plan of Reorganization for The Roman Catholic Diocese of Rockville Centre, New York [D.I. 1614]
CX-2	Disclosure Statement for Plan of Reorganization Proposed by The Roman Catholic Diocese of Rockville Centre, New York [D.I. 1615]
CX-3	First Amended Chapter 11 Plan of Reorganization Proposed by the Official Committee of Unsecured Creditors [D.I. 1643]
CX-4	Disclosure Statement for the First Amended Chapter 11 Plan of Reorganization Proposed by the Official Committee of Unsecured Creditors of The Roman Catholic Diocese of Rockville Centre [D.I. 1644]
CX-5	Mediator's Status Report [D.I. 2113]
CX-6	Reply in Support of Motion for a Preliminary Injunction Under Sections 362 and 105(a) of the Bankruptcy Code [Adv. Pro. 20-01226, D.I. 184]
CX-7	Memorandum Opinion Sustaining in Part and Overruling in Part Debtor's Eighth Omnibus Objection to Claims [D.I. 2062]
CX-8	Order Establishing Deadlines for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof [D.I. 333]
CX-9	Debtor's Twelfth Omnibus Objection to Late Claims [D.I. 2118]
CX-10	Memorandum Opinion and Order Denying the Debtor's Motion for a Preliminary Injunction [Adv. Pro. 20-01226, D.I. 202]
CX-11	Notice of Presentment and Joint Stipulation and Proposed Order Concerning the Independent Advisory Committee and the Investigation and Pursuit of Certain Claims [D.I. 497]
CX-12	Stipulation and Agreed Order Extending the Termination Date of the Preliminary Injunction Staying Continued Prosecution of Certain Lawsuits [Adv. Pro. 20-01226, D.I. 157]
CX-13	Chart of Joinders
CX-14	Joinder of PCVA and Marsh Law Survivors in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case [D.I. 2013]
CX-15	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Janet, Janet & Suggs, LLC [D.I. 2135]
CX-16	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Thomas Counselor at Law, LLC [D.I. 2136]
CX-17	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Kazerouni Law Group APC [D.I. 2137]

CX-18	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Slater Slater Schulman LLP [D.I. 2140]
CX-19	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Hach Rose Schirripa & Cheverie LLP [D.I. 2143]
CX-20	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Herman Law [D.I. 2145]
CX-21	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Jeff Anderson & Associates [D.I. 2146]
CX-22	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Matthews & Associates [D.I. 2147]
CX-23	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Merson Law, PLLC [D.I. 2148]
CX-24	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Law Offices of Mitchell Garabedian [D.I. 2152]
CX-25	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Sweeney, Reich & Boltz, LLP [D.I. 2153]
CX-26	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by The Zalkin Law Firm, P.C. [D.I. 2154]
CX-27	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Horowitz Law [D.I. 2159]
CX-28	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Weitz & Luxenberg, P.C. [D.I. 2160]
CX-29	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Levy Konigsberg LLP [D.I. 2162]
CX-30	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Robins Kaplan LLP [D.I. 2163]
CX-31	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Gair, Gair, Conason, et al. [D.I. 2167]

CX-32	Excerpts of February 21, 2023 Hearing Transcript (pages 1 and 20)
CX-33	June 6, 2023 email from Eric P. Stephens, Esq., to James Stang, Karen B. Dine, Brittany M. Michael, and Alan Kornfeld re DRVC - response on MTD proposal
CX-34	June 27, 2023 Deposition Transcript of Charles Moore
CX-35	Affidavit of Charles Moore, dated May 29, 2020 (in <i>Ark3Doe v. Diocese of Rockville Centre et al.</i> ; Supreme Court of the State of New York, County of Nassau, Index No. 900010/2019, NYSCEF Doc. No. 150)
CX-36	Paul N. Shields Curriculum Vitae
CX-37	List of Monthly Operating Reports
CX-38	Summary of Activity for the Administrative Offices and PSIP Activity With the Addition of February through April 2023
CX-39	Administrative Office – Post-Petition Monthly Income Statement Comparison (October 1, 2020 – April 30, 2023)
CX-40	PSIP – Post-Petition Monthly Income Statement Comparison (October 1, 2020 – April 30, 2023)
CX-41	Combined Monthly Income Statement Summary (October 1, 2020 – April 30, 2023)
CX-42	Combined Administrative Office and PSIP Post-Petition Monthly Unrestricted Loss
CX-43	Combined Administrative Office and PSIP Post-Petition Cumulative Unrestricted Loss
CX-44	Summary of Combined Unrestricted Income Statement Activity for the Administrative Offices and PSIP from the Petition Date through April 2023
CX-45	Debtor’s Monthly Operating Report for November 2020 [D.I. 301]
CX-46	Debtor’s Monthly Operating Report for December 2020 [D.I. 338]
CX-47	Debtor’s Monthly Operating Report for January 2021 [D.I. 380]
CX-48	Debtor’s Monthly Operating Report for February 2021 [D.I. 426]
CX-49	Debtor’s Monthly Operating Report for March 2021 [D.I. 485]
CX-50	Debtor’s Monthly Operating Report for April 2021 [D.I. 526]
CX-51	Debtor’s Monthly Operating Report for May 2021 [D.I. 582]
CX-52	Debtor’s Monthly Operating Report for June 2021 [D.I. 641]
CX-53	Debtor’s Monthly Operating Report for June 2021 – Amended (1) [D.I. 647]
CX-54	Debtor’s Monthly Operating Report for June 2021 – Amended (2) [D.I. 742]
CX-55	Debtor’s Monthly Operating Report for July 2021 [D.I. 718]

CX-32	Excerpts of February 21, 2023 Hearing Transcript (pages 1 and 20)
CX-56	Debtor's Monthly Operating Report for August 2021 [D.I. 762]
CX-57	Debtor's Monthly Operating Report for September 2021 [D.I. 811]
CX-58	Debtor's Monthly Operating Report for October 2021 [D.I. 889]
CX-59	Debtor's Monthly Operating Report for November 2021 [D.I. 949]
CX-60	Debtor's Monthly Operating Report for December 2021 [D.I. 970]
CX-61	Debtor's Monthly Operating Report for January 2022 [D.I. 992]
CX-62	Debtor's Monthly Operating Report for February 2022 [D.I. 1052]
CX-63	Debtor's Monthly Operating Report for March 2022 [D.I. 1089]
CX-64	Debtor's Monthly Operating Report for April 2022 [D.I. 1137]
CX-65	Debtor's Monthly Operating Report for May 2022 [D.I. 1184]
CX-66	Debtor's Monthly Operating Report for June 2022 [D.I. 1238]
CX-67	Debtor's Monthly Operating Report for July 2022 [D.I. 1295]
CX-68	Debtor's Monthly Operating Report for August 2022 [D.I. 1331]
CX-69	Debtor's Monthly Operating Report for September 2022 [D.I. 1392]
CX-70	Debtor's Monthly Operating Report for October 2022 [D.I. 1490]
CX-71	Debtor's Monthly Operating Report for November 2022 [D.I. 1547]
CX-72	Debtor's Monthly Operating Report for December 2022 [D.I. 1624]
CX-73	Debtor's Monthly Operating Report for January 2023 [D.I. 1723]
CX-74	Debtor's Monthly Operating Report for February 2023 [D.I. 1982]
CX-75	Debtor's Monthly Operating Report for March 2023 [D.I. 2057]
CX-76	Debtor's Monthly Operating Report for April 2023 [D.I. 2121]

B. RESPONDENT DEBTOR'S EXHIBITS

EXHIBIT NUMBER	DESCRIPTION
DX-15	Direct Testimony of Charles Moore, Figure 1: Dismissal Analysis [Docket No. 2224]
DX-16	Direct Testimony of Charles Moore, Table 1: Change in Unrestricted Net Assets [Docket No. 2224]
DX-17	Direct Testimony of Charles Moore, Table 2-1: Administrative Offices Projections Without Spectrum Assets Monetization [Docket No. 2224]
DX-18	Direct Testimony of Charles Moore, Table 2-2: Administrative Offices Projections with Spectrum Assets Monetization [Docket No. 2224]
DX-19	Direct Testimony of Charles Moore, Table 2-3: Protected Self Insurance Program Projections [Docket No. 2224]
DX-20	Exhibit A to the Direct Testimony of Charles Moore, Curriculum Vitae of Charles Moore [Docket No. 2224]
DX-21	The PCVA and Marsh Law Claimants' Responses and Objections to the Debtor's Combined Discovery Demands Directed to Joinders in the Official Committee of Unsecured Creditors' Motion to Dismiss, dated April 14, 2023
DX-22	Jeff Anderson & Associates Responses and Objections to the Debtor's Combined Discovery Demands Directed to Joinders in the Official Committee of Unsecured Creditors' Motion to Dismiss, dated April 14, 2023
DX-23	The Official Committee of Unsecured Creditors' Responses and Objections to the Debtor's Combined Discovery Demands Directed to the Official Committee of Unsecured Creditors [Concerning the Motion to Dismiss], dated April 14, 2023

VII. STIPULATIONS AND OBJECTIONS WITH RESPECT TO TESTIMONY AND EXHIBITS

The parties' stipulations and objections with respect to testimony, including to direct testimony are set forth below. The parties' objections to the designation of deposition testimony are set forth on Exhibit 1. Any objections not set forth herein will be considered waived absent good cause shown.

A. STIPULATIONS WITH RESPECT TO TESTIMONY AND EXHIBITS

None.

B. COMMITTEE’S OBJECTIONS

EXHIBIT NUMBER	DESCRIPTION	COMMITTEE’S OBJECTION
DX-15	Direct Testimony of Charles Moore, Figure 1: Dismissal Analysis [Docket No. 2224]	<i>See Motion of the Official Committee of Unsecured Creditors to Exclude Certain Direct Testimony and Evidence Offered By or Through the Diocese’s Testifying Expert in Connection with the Committee’s Motion to Dismiss the Chapter 11 Case and Corresponding Evidentiary Objections and Motion to Strike [Docket No. 2258] (“<u>MIL</u>”)</i>
DX-16	Direct Testimony of Charles Moore, Table 1: Change in Unrestricted Net Assets [Docket No. 2224]	
DX-17	Direct Testimony of Charles Moore, Table 2-1: Administrative Offices Projections Without Spectrum Assets Monetization [Docket No. 2224]	
DX-18	Direct Testimony of Charles Moore, Table 2-2: Administrative Offices Projections with Spectrum Assets Monetization [Docket No. 2224]	
DX-19	Direct Testimony of Charles Moore, Table 2-3: Protected Self Insurance Program Projections [Docket No. 2224]	
DX-20	Exhibit A to the Direct Testimony of Charles Moore, Curriculum Vitae of Charles Moore [Docket No. 2224]	
DX-21	The PCVA and Marsh Law Claimants’ Responses and Objections to the Debtor’s Combined Discovery Demands Directed to Joinders in the Official Committee of Unsecured Creditors’ Motion to Dismiss, dated April 14, 2023	
DX-22	Jeff Anderson & Associates Responses and Objections to the Debtor’s Combined Discovery Demands Directed to Joinders in the Official Committee of Unsecured	

EXHIBIT NUMBER	DESCRIPTION	COMMITTEE'S OBJECTION
	Creditors' Motion to Dismiss, dated April 14, 2023	
DX-23	The Official Committee of Unsecured Creditors' Responses and Objections to the Debtor's Combined Discovery Demands Directed to the Official Committee of Unsecured Creditors [Concerning the Motion to Dismiss], dated April 14, 2023	

C. DEBTOR'S OBJECTIONS

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CX-5	Mediator's Status Report [D.I. 2113]	
CX-6	Reply in Support of Motion for a Preliminary Injunction Under Sections 362 and 105(a) of the Bankruptcy Code [Adv. Pro. 20-01226, D.I. 184]	
CX-7	Memorandum Opinion Sustaining in Part and Overruling in Part Debtor's Eighth Omnibus Objection to Claims [D.I. 2062]	

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CX-8	Order Establishing Deadlines for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof [D.I. 333]	
CX-9	Debtor's Twelfth Omnibus Objection to Late Claims [D.I. 2118]	
CX-10	Memorandum Opinion and Order Denying the Debtor's Motion for a Preliminary Injunction [Adv. Pro. 20-01226, D.I. 202]	
CX-11	Notice of Presentment and Joint Stipulation and Proposed Order Concerning the Independent Advisory Committee and the Investigation and Pursuit of Certain Claims [D.I. 497]	
CX-12	Stipulation and Agreed Order Extending the Termination Date of the Preliminary Injunction Staying Continued Prosecution of Certain Lawsuits [Adv. Pro. 20-01226, D.I. 157]	
CX-13	Chart of Joinders	Privilege being used as sword and shield, hearsay not subject to an exception, see Debtor's Motion in Limine to Exclude Evidence of Recommendations Made by Claimants' Counsel to Claimants Regarding the Diocese's Plan ("DMIL")
CX-14	Joinder of PCVA and Marsh Law Survivors in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case [D.I. 2013]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-15	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Janet, Janet & Suggs, LLC [D.I. 2135]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-16	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Thomas Counselor at Law, LLC [D.I. 2136]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL

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CX-18	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Slater Slater Schulman LLP [D.I. 2140]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-19	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Hach Rose Schirripa & Cheverie LLP [D.I. 2143]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-20	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Herman Law [D.I. 2145]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-21	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Jeff Anderson & Associates [D.I. 2146]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-22	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Matthews & Associates [D.I. 2147]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-23	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Merson Law, PLLC [D.I. 2148]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-24	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Law Offices of Mitchell Garabedian [D.I. 2152]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-25	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Sweeney, Reich & Boltz, LLP [D.I. 2153]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-26	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by The Zalkin Law Firm, P.C. [D.I. 2154]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL

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CX-27	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Horowitz Law [D.I. 2159]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-28	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Weitz & Luxenberg, P.C. [D.I. 2160]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-29	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Levy Konigsberg LLP [D.I. 2162]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-30	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Robins Kaplan LLP [D.I. 2163]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-31	Amended Joinder in Motion of the Official Committee of Unsecured Creditors to Dismiss Chapter 11 Case, filed by Gair, Gair, Conason, et al. [D.I. 2167]	Privilege being used as sword and shield, hearsay not subject to an exception, see DMIL
CX-32	Excerpts of February 21, 2023 Hearing Transcript (pages 1 and 20)	FRE 106, rule of completeness
CX-33	June 6, 2023 email from Eric P. Stephens, Esq., to James Stang, Karen B. Dine, Brittany M. Michael, and Alan Kornfeld re DRVC - response on MTD proposal	
CX-34	June 27, 2023 Deposition Transcript of Charles Moore	
CX-35	Affidavit of Charles Moore, dated May 29, 2020 (in <i>Ark3Doe v. Diocese of Rockville Centre et al.</i> ; Supreme Court of the State of New York, County of Nassau, Index No. 900010/2019, NYSCEF Doc. No. 150)	
CX-36	Paul N. Shields Curriculum Vitae	
CX-37	List of Monthly Operating Reports	FRE 901
CX-38	Summary of Activity for the Administrative Offices and PSIP Activity With the Addition of February through April 2023	FRE 901

EXHIBIT NUMBER	DESCRIPTION	DEBTOR'S OBJECTION
CX-39	Administrative Office – Post-Petition Monthly Income Statement Comparison (October 1, 2020 – April 30, 2023)	FRE 901
CX-40	PSIP – Post-Petition Monthly Income Statement Comparison (October 1, 2020 – April 30, 2023)	FRE 901
CX-41	Combined Monthly Income Statement Summary (October 1, 2020 – April 30, 2023)	FRE 901
CX-42	Combined Administrative Office and PSIP Post-Petition Monthly Unrestricted Loss	FRE 901
CX-43	Combined Administrative Office and PSIP Post-Petition Cumulative Unrestricted Loss	FRE 901
CX-44	Summary of Combined Unrestricted Income Statement Activity for the Administrative Offices and PSIP from the Petition Date through April 2023	FRE 901
CX-45	Debtor's Monthly Operating Report for November 2020 [D.I. 301]	
CX-46	Debtor's Monthly Operating Report for December 2020 [D.I. 338]	
CX-47	Debtor's Monthly Operating Report for January 2021 [D.I. 380]	
CX-48	Debtor's Monthly Operating Report for February 2021 [D.I. 426]	
CX-49	Debtor's Monthly Operating Report for March 2021 [D.I. 485]	
CX-50	Debtor's Monthly Operating Report for April 2021 [D.I. 526]	
CX-51	Debtor's Monthly Operating Report for May 2021 [D.I. 582]	
CX-52	Debtor's Monthly Operating Report for June 2021 [D.I. 641]	
CX-53	Debtor's Monthly Operating Report for June 2021 – Amended (1) [D.I. 647]	
CX-54	Debtor's Monthly Operating Report for June 2021 – Amended (2) [D.I. 742]	

EXHIBIT NUMBER	DESCRIPTION	DEBTOR'S OBJECTION
CX-55	Debtor's Monthly Operating Report for July 2021 [D.I. 718]	
CX-56	Debtor's Monthly Operating Report for August 2021 [D.I. 762]	
CX-57	Debtor's Monthly Operating Report for September 2021 [D.I. 811]	
CX-58	Debtor's Monthly Operating Report for October 2021 [D.I. 889]	
CX-59	Debtor's Monthly Operating Report for November 2021 [D.I. 949]	
CX-60	Debtor's Monthly Operating Report for December 2021 [D.I. 970]	
CX-61	Debtor's Monthly Operating Report for January 2022 [D.I. 992]	
CX-62	Debtor's Monthly Operating Report for February 2022 [D.I. 1052]	
CX-63	Debtor's Monthly Operating Report for March 2022 [D.I. 1089]	
CX-64	Debtor's Monthly Operating Report for April 2022 [D.I. 1137]	
CX-65	Debtor's Monthly Operating Report for May 2022 [D.I. 1184]	
CX-66	Debtor's Monthly Operating Report for June 2022 [D.I. 1238]	
CX-67	Debtor's Monthly Operating Report for July 2022 [D.I. 1295]	
CX-68	Debtor's Monthly Operating Report for August 2022 [D.I. 1331]	
CX-69	Debtor's Monthly Operating Report for September 2022 [D.I. 1392]	
CX-70	Debtor's Monthly Operating Report for October 2022 [D.I. 1490]	
CX-71	Debtor's Monthly Operating Report for November 2022 [D.I. 1547]	

EXHIBIT NUMBER	DESCRIPTION	DEBTOR'S OBJECTION
CX-72	Debtor's Monthly Operating Report for December 2022 [D.I. 1624]	
CX-73	Debtor's Monthly Operating Report for January 2023 [D.I. 1723]	
CX-74	Debtor's Monthly Operating Report for February 2023 [D.I. 1982]	
CX-75	Debtor's Monthly Operating Report for March 2023 [D.I. 2057]	
CX-76	Debtor's Monthly Operating Report for April 2023 [D.I. 2121]	

VIII. MOVANT COMMITTEE'S WITNESS LIST

Pursuant to the *First Amended Stipulation and Agreed Scheduling Order with Respect to the Official Committee of Unsecured Creditors' Motion to Dismiss Chapter 11 Case*, entered on June 12, 2023 [Docket No. 2144], direct testimony of witnesses listed in Paragraphs IX and X of this Order shall be submitted by declaration. Witnesses shall be made available in the courtroom, cross-examination and re-direct unless specified otherwise. Pursuant to a request made to and granted by the Court, Jason Amala, Esq. will be made available for cross-examination and re-direct remotely.

1. Mr. Charles D'Estris Docket No. 2232
2. Jason Amala, Esq. Docket No. 2233
[by Zoom, with permission of the Court]
3. Mr. Paul Shields Docket No. 2236
4. Patrick Stoneking, Esq. Docket No. 2235
5. Adverse witness: The Committee may, in addition to cross-examination, call Mr. Charles Moore in its case in chief.
6. Deposition designations of
 - (a) Andrew Silvershein, Esq.;
 - (b) Linc Leder, Esq.; and
 - (c) Adam Horowitz, Esq.

The deposition designations, the parties' objections, and counter-designations are attached hereto as **Exhibit 1**.

IX. RESPONDENT DEBTOR'S WITNESS LIST

1. Mr. Charles Moore Docket No. 2224

X. RELIEF SOUGHT

The Committee seeks an order dismissing the Diocese's chapter 11 case pursuant to 11 U.S.C. §§ 105(a) and 1112(b).

Dated: July 5, 2023

/s/ Alan Kornfeld

Pachulski Stang Ziehl & Jones LLP

Alan Kornfeld, Esq.

Counsel for Movant the Official Committee of Unsecured Creditors

/s/ Eric P. Stephens

Jones Day

Eric P. Stephens, Esq.

Counsel for The Roman Catholic Diocese of Rockville Centre, New York

Dated: July ____, 2023

IT IS SO ORDERED:

The Hon. Martin Glenn

CHIEF UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1
Deposition Designations, Objections, Counter-Designations,
and Objections to Counter-Designations

<u>June 22, 2023 Deposition of Andrew Silvershein, Esq.</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter-Designations	Committee's Objections to Counter-Designations
6:12-16			
8:5-12	FRE 602, lacks foundation, see counter-designation	8:13-16	
9:18-24			
10:10 to 13:18	FRE 602, lacks foundation, see counter-designation	14:6-13, 20:15-22:6, 22:17-20	
14: 6-13			
18: 20 to 20:6	FRE 602, lacks foundation, see counter-designation	14:6-13, 20:15-22:6, 22:17-20	
20:15-24			
21:5-8			
21:20-25			
22:7-16	FRE 602, lacks foundation, see counter-designation	14:6-13, 20:15-22:6, 22:17-20	
24:16-19			
25:9 to 27:12	As to 25:9-18, FRE 602, lacks foundation, see counter-designation	60:16-61:11, 61:16-20, 62:1-19, 62:24-63:7	
27:18 to 30:15			
31:3-24			

<u>June 22, 2023 Deposition of Andrew Silvershein, Esq.</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter-Designations	Committee's Objections to Counter-Designations
32:4 to 34:24	Privilege being used as sword and shield, see Herman Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	52:20-53:23, 54:8-55:1	
35:1-15	Privilege being used as sword and shield, see Herman Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	52:20-53:23, 54:8-55:1	
36:16-20	Privilege being used as sword and shield, see Herman Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	52:20-53:23, 54:8-55:1	
37:5-17			
39:1 to 40:4	Privilege being used as sword and shield, see Herman Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	52:20-53:23, 54:8-55:1	
40:20 to 41:4	Privilege being used as sword and shield, see Herman Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	52:20-53:23, 54:8-55:1	
44:1-13			

<u>June 22, 2023 Deposition of Andrew Silvershein, Esq.</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter-Designations	Committee's Objections to Counter-Designations
45:2 to 46:10	FRE 602, lacks foundation, see counter-designation, privilege being used as sword and shield, see Herman Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	43:5-10, 52:20-53:23, 54:8-55:1	
46:18-24			
48:19 to 49:11	Privilege being used as sword and shield, see Herman Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	52:20-53:23, 54:8-55:1	
49:22-24	Privilege being used as sword and shield, see Herman Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	52:20-53:23, 54:8-55:1	
50:8 to 51:11	Privilege being used as sword and shield, see Herman Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	52:20-53:23, 54:8-55:1	
51:17 to 52:6	Privilege being used as sword and shield, see Herman Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	52:20-53:23, 54:8-55:1	

<u>June 22, 2023 Deposition of Andrew Silvershein, Esq.</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter- Designations	Committee's Objections to Counter-Designations
58:19 to 59:6	FRE 602, lacks foundation, see counter-designation	57:13-58:15, 59:7-14, 60:9-15	
60:9-15			

<u>June 21, 2023 Deposition of Linc Leder, Esq.</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter-Designations	Committee's Objections to Counter-Designations
5:2-10			
6:18-20			
9:14-18			
10:14 to 11:3			
12:12-18			
13:20-25			
15:9-20			
17:13-21	FRE 602, speculation see counter-designation	15:9-20	
18:11 to 20:15	FRE 602, lacks foundation, see counter-designation	67:11-68:19, 69:22-70:15, 74:3-14, 76:14-19	
27:14 to 28:11		28:17-32:11, 32:16-33:5	
28:17 to 32:6		28:17-32:11, 32:16-33:5	
32:23 to 33:15		28:17-32:11, 32:16-33:5	
34:13-16			
35:23 to 36:20	FRE 602, lacks foundation, see counter-designation	35:23-36:20	
37:7-17			

<u>June 21, 2023 Deposition of Linc Leder, Esq.</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter-Designations	Committee's Objections to Counter-Designations
38:8 to 39:12	Privilege being used as sword and shield, see Slater, Slater, Schulman discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	77:24-78:9, 78:15-79:20	
40:6-22	Privilege being used as sword and shield, see Slater, Slater, Schulman discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	77:24-78:9, 78:15-79:20	
43:9 to 45:21	Privilege being used as sword and shield, see Slater, Slater, Schulman discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	77:24-78:9, 78:15-79:20	
47:10 to 48:3			
49:13 to 50:6			
50:13 to 52:19	As to 50:17-51:52:4, FRE 602, lacks foundation, see counter-designation As to 52:5-19, privilege being used as sword and shield, see Slater, Slater, Schulman discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	67:11-68:19, 69:22-70:15, 74:3-14, 76:14-19 77:24-78:9, 78:15-79:20	

<u>June 21, 2023 Deposition of Linc Leder, Esq.</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter-Designations	Committee's Objections to Counter-Designations
53:25 to 55:8	Privilege being used as sword and shield, see Slater, Slater, Schulman discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	77:24-78:9, 78:15-79:20	
55:11-22			
61:15 to 62:11			
67:6-10			
74:3-14			
83:6 to 84:21	As to 83:6-25, privilege being used as sword and shield, see Slater, Slater, Schulman discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	77:24-78:9, 78:15-79:20	

<u>June 21, 2023 Deposition of Adam Horowitz</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter-Designations	Committee's Objections to Counter-Designations
6:18-22			
8:10-23			
9:6 to 10:2	Incomplete see counter-designation	8:24-9:7	
11:2-9	FRE 602, lacks foundation, see counter-designation	11:2-9	
13:6 to 14:7	Privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25	
15:23 to 16:6			
16:17 to 17:2		17:4-14	
17:22 to 20:14		66:23-67:14	
21:14 to 22:3			
23:22-25	Incomplete see counter-designation	23:7-24:3	
30:4-23	FRE 602, lacks foundation, see counter-designation	27:12-19, 28:1-8, 30:16-24, 35:4-22, 36:3-37:17, 37:24-38:11, 38:22-39:10, 41:14-21, 53:8-11, 53:18-21, 67:23-68:9, 68:20-69:8, 69:12-18, 70:1-12, 70:16-71:3, 73:21-74:25	

<u>June 21, 2023 Deposition of Adam Horowitz</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter-Designations	Committee's Objections to Counter-Designations
31:1-4	FRE 602, lacks foundation, see counter-designation	27:12-19, 28:1-8, 30:16-24, 35:4-22, 36:3-37:17, 37:24-38:11, 38:22-39:10, 41:14-21, 53:8-11, 53:18-21, 67:23-68:9, 68:20-69:8, 69:12-18, 70:1-12, 70:16-71:3, 73:21-74:25	
34:1-10	Privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25	
35:4-22			
37:24 to 38:8	Incomplete, FRE 602, lacks foundation, see counter-designation	37:24-38:11	
42:24 to 43:22	Privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25	
45:14-20	Privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25	

<u>June 21, 2023 Deposition of Adam Horowitz</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter-Designations	Committee's Objections to Counter-Designations
46:7 to 47:4	Privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25	
47:13-20	Privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25	
50:24 to 51:10			
54:3 to 56:5	Privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25	
57:8-22	Privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25	
59:20 to 60:11			
60:23 to 61:3			

<u>June 21, 2023 Deposition of Adam Horowitz</u>			
Committee's Initial Designations	Diocese's Objections to Initial Designations	Diocese's Counter-Designations	Committee's Objections to Counter-Designations
64:12 to 65:2	Privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25	
65:11 to 66:10	Privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25	
72:12-20	FRE 602, lacks foundation, see counter-designation	72:7-20	
75:17-21	Incomplete, privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	75:14-21, 82:5-24, 85:21-86:14, 86:19-25	
78:6 to 79:3	Incomplete, improper / unqualified expert opinion	77:24-79:3	
87:10-16	Incomplete, privilege being used as sword and shield, see Horowitz Law discovery responses, counter-designation, Local Bankruptcy Rule 7033-1, 7034-1, and DMIL	82:5-24, 85:21-86:14, 86:19-25, 87:1-16	